

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

ROBERT J. BERRY, JR.,)	
)	
Plaintiff,)	
)	
v.)	No.: 3:04-CV-447
)	(VARLAN/SHIRLEY)
JO ANNE B. BARNHART,)	
Commissioner of Social Security,)	
)	
Defendant.)	

ORDER

This Social Security appeal is before the Court for consideration of the Report and Recommendation filed by United States Magistrate Judge C. Clifford Shirley, Jr. on January 5, 2006 [Doc. 25]. There have been no timely objections to the Report and Recommendation, and enough time has passed since the filing of the Report and Recommendation to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Magistrate Judge Shirley found that the Administrative Law Judge's decision that plaintiff is not disabled is supported by substantial evidence in the record as a whole and recommended that plaintiff's motion for summary judgment [Doc. 17] be denied and that defendant Commissioner's motion for summary judgment [Doc. 23] be granted.

The Court has carefully reviewed this matter, including the underlying pleadings [Docs. 18, 19, 24]. The Court is in agreement with Magistrate Judge Shirley's recommendation, which the Court adopts and incorporates into its ruling. Plaintiff's

motion for summary judgment [Doc. 17] is **DENIED** and defendant's motion for summary judgment [Doc. 23] is **GRANTED**. The Court **ACCEPTS IN WHOLE** the Report and Recommendation and this case is hereby **DISMISSED**.

IT IS SO ORDERED.

s/ Thomas A. Varlan

UNITED STATES DISTRICT JUDGE